

THE STATE OF NEW HAMPSHIRE

ATTORNEY GENERAL
GREGORY H. SMITH

DEPUTY ATTORNEY GENERAL
DEBORAH J. COOPER

ATTORNEYS
LORETTA S. PLATT
DANIEL J. MULLEN
JAMES D. CAHILL, III
RONALD F. RODGERS
JEFFREY R. HOWARD
G. DANA BISBEE
GREGORY W. SWOPE
PETER T. FOLEY
STEVEN M. HOURAN
EVE H. OYER
BRUCE E. MOHL
DOUGLAS L. PATCH
JOHN A. MALMBERG



THE ATTORNEY GENERAL
STATE HOUSE ANNEX
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

ASSISTANT ATTORNEYS GENERAL
JOHN T. PAPPAS
E. TUPPER KINDER
JAMES E. TOWNSEND
ANNE R. CLARKE
MARC R. SCHEER
DONALD J. PERRAULT
JEFFREY R. COHEN
PAUL W. HODES
MARTIN R. JENKINS
PETER W. MOSSEAU
BETSY S. WESTGATE
MARTHA V. GORDON
PETER C. SCOTT
EDWARD L. CROSS, JR.
MICHAEL A. PIGNATELLI
BRIAN T. TUCKER
PAUL BARBADORO

January 10, 1983

Mr. Barry Bush, Chief
Fire Service Training
Fire Standards and Training Commission
18 Low Avenue
Concord, New Hampshire 03301

Dear Mr. Bush:

This is a response to your letter dated December 21, 1982 requesting an opinion regarding the following questions: (1) Does a private contractor providing fire protection services to a municipality have to meet the fire personnel standards as promulgated by the Commission? (2) Does a private fire brigade that provides in-plant or on-site protection to a specific industry have to meet the fire personnel standards as promulgated by the Commission?

The answer to your first question is that a full-time career firefighter, as defined by the Commission, employed by a private contractor providing fire protection services to a municipality must meet the standards of the Commission. The answer to your second question is that any person employed by a private fire brigade that provides in-plant or on-site protection to a specific industry does not have to satisfy the standards of the Commission.

RSA 154-C, the chapter which established the Fire Standards and Training Commission, includes a provision which prohibits the appointment of a "full-time career fire fighter, except on a temporary or probationary basis, unless such person has satisfactorily completed a preparatory program of fire training approved by the commission." RSA 154-C:5, I. Under RSA 154-C:3, V, the Commission is required to adopt a rule defining



a "full-time career fire fighter for purposes of RSA 154-C:5, I." Pursuant to this power delegated to it by the legislature, the Commission has adopted Rule FIRE 101.01(p), which reads as follows:

"(p) "Full-time career fire personnel" shall mean any fire service personnel who are employed as a member of a fire department for the state, unit of government, or public municipal corporation, or private fire department providing fire services to the general public as their principal source of income from the aforementioned and who perform fire, rescue, or related duties for that unit of government or public municipal corporation and who is paid \$5,000 or more in any given consecutive 12-month period; or who has been assigned to work on a permanent basis, the number of hours per week established by the hiring authority as a full work week."

The definition contained in this rule clearly includes any fire service personnel employed by a private fire department which provides fire services to the general public as its principal source of income as long as the personnel employed by the private fire department meet the income or work assignment requirements and perform the related duties.

Therefore, individuals employed by a private contractor who meets the standards set out in FIRE 101.01(p) must complete the preparatory program and any additional education and training standards established by the Commission.

Since the definition of "full-time career fire personnel" does not include personnel employed by a private fire brigade that provides in-plant or on-site protection to a specific industry, such personnel would not be required to meet standards established by the Commission.

I hope this has been responsive to your questions. Please let me know if you have any further questions.

Sincerely,



Douglas L. Patch
Assistant Attorney General
Division of Legal Counsel